

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

ROBERT C. HUMPLE,

Plaintiff,

v.

CIVIL ACTION NO. 2:13-cv-14618

JEFFERY HILEWITZ,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Plaintiff's Memorandum of Law/Opinion and of Objections ("Objections"). (ECF 55.) On February 12, 2014, Defendants filed a Motion to Dismiss Supplemental Complaint. (ECF 47.) Plaintiff filed his opposition to this motion on February 19, 2014. (ECF 49.)

By Standing Order entered on April 8, 2013, and filed in this case on June 24, 2013, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and recommendations for disposition ("PF&R"). (ECF 2.) On July 31, 2014, Magistrate Judge Tinsley filed a PF&R, which recommended that the Court grant in part and deny in part Defendants' Motion to Dismiss. (ECF 51.) This PF&R also included the following:

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Rules 6(d) and 72(b), Federal Rules of Civil Procedure, the parties shall have fourteen days (filing of objections) and three days (mailing) from the date of filing this Proposed Findings and Recommendation within which to file with the Clerk of this Court, specific written objections, identifying the portions of the Proposed Findings and Recommendation to which objection is made, and the basis of such

objection. Extension of this time period may be granted by the presiding District Judge for good cause shown.

Failure to file written objections as set forth above shall constitute a waiver of *de novo* review by the District Court and a waiver of appellate review by the Circuit Court of Appeals. *Snyder v. Ridenour*, 889 F.2d 1363 (4th Cir. 1989); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

(*Id.* at 23–24.) By its Memorandum Opinion and Order, dated September 16, 2014 (the “Opinion”), this Court adopted the above-referenced PF&R to the extent it was consistent with the Opinion and granted in part and denied in part Defendants’ Motion to Dismiss. (ECF 54.) On October 14, 2014, Plaintiff filed the instant late Objections to the PF&R, (ECF 55), after the applicable deadline, (*see* ECF 51 at 23–24).

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Plaintiff’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Objections to the July 31, 2014 PF&R were due by August 18, 2014. (*See* ECF 51 at 23–24.) Plaintiff filed the Objections on October 14, 2014—well after the Court entered the Opinion and the deadline for filing objections. Accordingly, the Objections, (ECF 55), are **DENIED AS MOOT**.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: May 18, 2015

A handwritten signature in blue ink, appearing to read 'Thomas E. Johnston', is written over a horizontal line.

THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE